

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman; and
Robert G. Taub

Competitive Product Prices
Global Plus 2C (MC2012-5)
Negotiated Service Agreement

Docket No. CP2014-46

ORDER APPROVING ADDITIONAL GLOBAL PLUS 2C
NEGOTIATED SERVICE AGREEMENT

(Issued April 28, 2014)

I. INTRODUCTION

The Postal Service seeks to include an additional Global Plus 2C agreement (Agreement) within the Global Plus 2C product.¹ For the reasons discussed below, the Commission approves the Postal Service's request.

¹ Notice of United States Postal Service of Filing a Functionally Equivalent Global Plus 2C Contract Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, April 16, 2014 (Notice).

II. BACKGROUND

The Postal Service filed its Notice on April 16, 2014. The Agreement is intended to take effect May 1, 2014.² Notice at 3. It is set to expire March 31, 2015. *Id.* at 4.

In Order No. 2057, the Commission provided public notice of the Postal Service's filing; established the instant docket for consideration of the filing's consistency with applicable statutory policies and Commission regulations; appointed a Public Representative; and provided an opportunity to comment.³

III. COMMENTS

The Public Representative filed comments on April 25, 2014.⁴ No other comments were received.

Based upon a review of the Postal Service's filing, including the information filed under seal with the Commission, the Public Representative recommends that the Commission approve the Agreement. See PR Comments at 2. First, the Public Representative concludes that the Agreement is functionally equivalent to the baseline contracts because the differences between the baseline contracts and the Agreement "do not impact any cost or market characteristics that would differentiate the contracts at any substantive level." *Id.* at 3-4. Second, the Public Representative concludes that the Agreement meets the statutory requirements set forth in 39 U.S.C. §§ 3662, 3663 and the regulatory requirements contained in 39 C.F.R. § 3015.5. *Id.* at 4-5. Finally, the Public Representative states that she "believes that the proposed Global Plus 2C

² Although the Agreement is intended to take effect on May 1, 2014, no effective date is explicitly stated within the Agreement. See Attachment 1 to Notice, Art. 2, p. 2 (defining "Effective Date" as "the first date on which the USPS is willing to accept Qualifying Mail."); Attachment 1 to Notice, Art. 12.1, p. 9 (stating "[t]he USPS will notify the Mailer of the Effective Date of the Agreement within thirty (30) days after receiving the approval of the entities that have oversight responsibilities for the USPS.").

³ Notice and Order Concerning Additional Global Plus 2C Contract Negotiated Service Agreement, April 18, 2014 (Order No. 2057).

⁴ Public Representative Comments on Notice of the United States Postal Service of Filing Functionally Equivalent Global Plus 2C Contract Negotiated Service Agreement, April 25, 2014 (PR Comments).

contract will cover its attributable costs and make a positive contribution of at least 5.5 percent toward the Postal Service's institutional costs." *Id.* at 5. Consequently, the Public Representative recommends that the Commission approve the Agreement. *Id.* at 2.

IV. COMMISSION ANALYSIS

The Commission's responsibilities in this case are to ensure that the Agreement: (1) is functionally equivalent to the baseline agreement; and (2) satisfies the requirements of 39 U.S.C. § 3633 and applicable Commission rules (39 C.F.R. §§ 3015.5 and 3015.7).

Functional equivalence. In Order No. 1135, the Commission added the Global Plus 2C product to the competitive product list and designated two agreements as baseline agreements for assessing the functional equivalence of agreements proposed for inclusion within the Global Plus 2C product.⁵

The Postal Service asserts that its filing demonstrates that the Agreement is functionally equivalent to the baseline agreements, and requests that the Agreement be included within the Global Plus 2C product. Notice at 3. It asserts that the Agreement fits within the draft Mail Classification Schedule language for the Global Plus 2C product. *Id.* The Postal Service also asserts that the Agreement and the baseline agreements possess similar cost and market characteristics and the same functional terms, but states that prices may differ. *Id.* at 4-5. The Postal Service identifies numerous differences between the Agreement and the baseline agreements, but asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the Agreement.⁶

⁵ Docket Nos. MC2012-5, CP2012-10, and CP2012-11, Order Adding Global Plus 2C to the Competitive Product List and Approving Functionally Equivalent Global Plus 2C Agreements, January 13, 2012, at 6,7 (Order No. 1135).

⁶ Differences include, among others, revisions to existing articles, the renumbering of several articles, and the inclusion of new articles. *Id.* at 5-7.

The Commission has reviewed the Postal Service's reasons for asserting that the Agreement shares similar cost and market characteristics with the baseline agreements; meets the pricing formula and falls within the classification established in the Governors' Decision authorizing this product; and comports with 39 U.S.C. § 3633 and applicable Commission rules. It also has considered the Public Representative's comments. The Commission concludes that the Agreement is substantially similar to the baseline agreements and that the differences between them do not fundamentally alter either the service the Postal Service will provide under the Agreement or the structure of the Agreement. The Commission therefore finds that the Agreement may be included within the Global Plus 2C product.

Cost considerations. The Commission reviews competitive products to ensure they meet the applicable requirements of 39 U.S.C. § 3633 and 39 C.F.R. §§ 3015.5 and 3015.7. The Postal Service asserts that its filing demonstrates that the Agreement complies with the requirements of 39 U.S.C. § 3633. Notice at 2, 8. The Commission has reviewed the Postal Service's filing, including supporting financial analyses provided under seal, and the Public Representative's comments. Based on this review, the Commission finds that the Agreement should cover its attributable costs. 39 U.S.C. § 3633(a)(2). The Commission notes that the Agreement is unclear with respect to whether the exchange rate between the United States Dollar and the Canadian Dollar reported on February 10, 2014 or a different date forms the basis of the negotiated postage prices, and any subsequent price adjustments. Attachment 1 to Notice, Art. 15, p. 10. However, the Commission concludes that this lack of precision is immaterial as the difference between the exchange rates on the two dates is not significant.

Additionally, it finds that the Agreement should not result in competitive products being subsidized by market dominant products, satisfying the requirements of 39 U.S.C. § 3633(a)(1). It also finds the Agreement should have a positive effect on the contribution of competitive products to institutional costs, in furtherance of 39 U.S.C. § 3633(a)(3). Accordingly, a preliminary review of the Agreement indicates it is

consistent with the section 3633(a) provisions applicable to rates for competitive products.

Rate changes. The Agreement, like previous competitive agreements covering the IBRS product, includes clauses addressing cost increases and contingent pricing that allow the Postal Service flexibility to change rates without entering into a new agreement. The Commission addressed the implications of contingency pricing clauses in Order No. 178 and concluded that the Postal Service must file notice of rate changes occurring under such clauses pursuant to 39 C.F.R. § 3015.5 and provide a minimum of 15 days' notice.⁷

Other considerations. The contract is set to expire on March 31, 2015. Notice at 4.

The Postal Service shall promptly notify the Commission of the effective date of the Agreement. Upon termination of the Agreement by either party, the Postal Service shall promptly inform the Commission of this development and the date of termination. In addition, within 30 days of the termination of the Agreement, the Postal Service shall file costs, volumes, and revenues associated with the Agreement, including any penalties paid, disaggregated by weight and country group.

V. ORDERING PARAGRAPHS

It is ordered:

1. The Agreement filed in Docket No. CP2014-46 is included within the Global Plus 2C (MC2012-5) product. The revision to the Mail Classification Schedule appears below the signature of this Order and is effective immediately.
2. The Postal Service shall promptly notify the Commission of the effective date of the Agreement.

⁷ Docket Nos. MC2009-14 and CP2009-20, Order Concerning International Business Reply Service Contract 1 Negotiated Service Agreement, February 5, 2009, at 10 (Order No. 178).

3. The Postal Service shall promptly notify the Commission of the date of termination if the Agreement is terminated early by either party.
4. Within 30 days of the termination of the Agreement, the Postal Service shall file costs, volumes, and revenues, including any penalties paid, disaggregated by weight and country group.

By the Commission.

Ruth Ann Abrams
Acting Secretary

CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the Mail Classification Schedule. New text is underlined. Deleted text is struck through.

PART B—COMPETITIVE PRODUCT LIST

2500 Negotiated Service Agreements

2510 Outbound International

2510.6 Global Plus Contracts

2510.6.6 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

- Global Plus 2C

Baseline Reference

Docket Nos. MC2012-5, CP2012-10, and CP2012-11

PRC Order No. 1135, January 13, 2012

Included Agreements

CP2014-46, expires at 11:59 p.m. on March 31, 2015, unless terminated earlier pursuant to certain provisions within the agreement.
